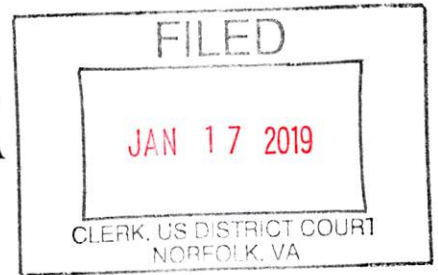


IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division



JOE LEWIS HARRIS, III, #1444683,

Petitioner,

v.

HAROLD W. CLARKE, Director,
Virginia Department of Corrections,

Defendant.

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Civil Action No.: 2:18cv105

FINAL ORDER

Before the Court is a petition for a writ of habeas corpus (ECF No. 1) filed pursuant to 28 U.S.C. § 2254, and the Respondent's motion to dismiss (ECF No. 8). On February 12, 2012, the Petitioner was convicted of first degree murder in violation of Virginia Code § 18.2-32 and malicious wounding in violation of Virginia Code § 18.2-51 after pleading guilty on October 14, 2011, in the Circuit Court for the County of Powhatan, Virginia. The Petitioner was sentenced to thirty-two years for the first degree murder conviction and ten years for the malicious wounding conviction to be served concurrently. In his petition, the *pro se* Petitioner challenges the constitutionality of this conviction and sentence.

The matter was referred for disposition to a United States Magistrate Judge pursuant to 28 U.S.C. §§ 636(b)(1)(B)-(C), Federal Rule of Civil Procedure 72(b), Local Civil Rule 72, and the April 2, 2002 Standing Order on Assignment of Certain Matters to United States Magistrate Judges. In a Report and Recommendation entered on November 5, 2018 (ECF No. 13), the Magistrate Judge recommended the motion to dismiss be granted, and the petition be denied and dismissed with prejudice. The parties were advised of their right to file written objections to the


Report and Recommendation. Neither the Petitioner nor the Respondent filed objections with the Court.

Having reviewed the record and having heard no objection, the Court agrees with the Report and Recommendation on the grounds stated by the Magistrate Judge and **ADOPTS** and **APPROVES** the Report and Recommendation (ECF No. 13) in its entirety as the Court's own opinion. Accordingly, the Respondent's motion to dismiss (ECF No. 8) is **GRANTED**, and the Petition (ECF No. 1) is **DENIED** and **DISMISSED WITH PREJUDICE**. It is **ORDERED** that judgment be entered in favor of the Respondent.

The Petitioner is hereby notified that he may appeal from the judgment entered pursuant to this Final Order by filing a *written* notice of appeal with the Clerk of the Court at the Walter E. Hoffman United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510, within thirty (30) days from the date judgment is entered. Because the Petitioner has failed to demonstrate a substantial showing of the denial of a constitutional right pursuant to 28 U.S.C. § 2253(c) and Federal Rule of Appellate Procedure 22(b)(1), the Court declines to issue a certificate of appealability. *See Miller-El v. Cockrell*, 537 U.S. 322, 335-36 (2003).

The Clerk is **DIRECTED** to forward a copy of this Order to the Petitioner and counsel of record for the Respondent.

It is so **ORDERED**.

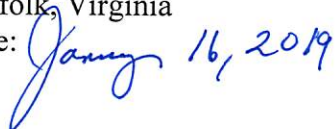


Raymond A. Jackson
United States District Judge

Raymond A. Jackson
United States District Judge

Norfolk, Virginia

Date:

 January 16, 2019